

## REMARKS

Applicant notes that Item 3 on the Office Action summary sheet is marked indicating that the subject application is in condition for allowance except for formal matters and that prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*. Applicant assumes that Item 3 has been marked in error and hereby solicits clarification.

### **The Restriction:**

Applicant has elected to prosecute in this application the claims in Group I, Species I (Claims 31, 83 and 84). Applicant has amended Claim 32 to depend from Claim 31. Consideration and allowance of Claims 32-40 (Species II) is solicited.

Applicant has added Claims 81 and 82 which are generic to Species I (Claims 31-40, 83, and 84), Species III (Claims 41-44), and Species V (Claims 55-59). Claims 81 and 82 are thus linking claims between the Species I, III, and V, and are properly examined with the elected Species I, i.e., "An examiner's action subsequent to an election of species should include a complete action on the merits of all claims readable on the elected species." (MPEP ¶ 809.02(c)) The MPEP further states "The linking claims must be examined with the invention elected, and should any linking claim be allowed, the restriction requirement must be withdrawn." (MPEP ¶ 809). The restriction of Claims 81 and 82 is improper. Reconsideration and withdrawal of the restriction of Claims 81 and 82 is solicited.

In view of the examination of Claim 84, applicant requests examination of Claims 71 and 72 in this application. The examiner can show no undue burden in examining Claims 71-72 with Claim 84.

Applicant provisionally cancels Claims 41-44 (Species III) and 55-59 (Species V) pending examination of linking Claims 81 and 82.

Applicant has canceled Claims 1-30, 45-54, 60-70, 73-82, 85, and 86 without prejudice.

**The Section 102 and 103 Rejections:**

Claims 31, 83 and 84 have been examined in this application. Claims 31 and 83 stand rejected under Section 102(e) as anticipated by U.S. Patent No. 6,[1]88,164 to Brown et al<sup>1</sup>. Claim 84 stands rejected under Section 103 as obvious over the patent to Brown et al. in view of U.S. Patent No. 3,094,640 to Gustin. The examiner appears to have misread what the cited patents fairly disclose. Reconsideration and withdrawal of the rejections is solicited.

Claim 31 recites, *inter alia*, a structure for mounting an arc tube within the outer envelope of an HID lamp, the structure including “an elongated frame supported at one end by a stem assembly ... there being no weld between the frame and the stem assembly.”

---

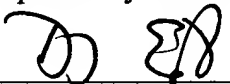
<sup>1</sup> The examiner’s citation to USPN 6,288,164 appears to be in error. The rejection appears to be based on USPN 6,188,164 to Brown et al. and Applicant has responded accordingly.

In contrast, the Brown et al. '164 patent discloses a glass stem 10 supporting a mount assembly 9 including banding straps 11 and 12 and mount frame 14 which includes elongated rods 14a and 14b. The banding strap 11 includes the mount frame receiving areas 11c, 11d and the banding strap 12 includes the mount frame receiving areas 12c, 12d. (See Figs. 1-3 and col. 2, lines 18-32). The rods 14a and 14b are received into the mount frame receiving areas 11c, 11d, 12c, 12d and are fixed therein, **preferably by welding**. (Column 2, lines 51-53) (emphasis added). Clearly the Brown et al. '164 patent fails to disclose or suggest the elements recited in Claim 31 which require "there being no weld between the frame and the stem assembly." The rejection under 35 U.S.C. §102(e) is improper and must be withdrawn. Reconsideration and withdrawal of the rejection of Claim 31 is hereby solicited.

Claims 83 and 84 depend from Claim 31 and are thus allowable with Claim 31 without recourse to the further patentable limitations respectively recited therein. Reconsideration and withdrawal of the rejection of Claims 83 and 84 is hereby solicited.

A further and favorable action and allowance of the pending claims is solicited.

Respectfully submitted,

  
\_\_\_\_\_  
D. Joseph English  
Reg. No. 42,514

DUANE MORRIS LLP  
1667 K Street, N.W., Suite 700  
Washington, D.C. 20006  
Telephone: (202) 776-7800  
Telecopier: (202) 776-7801  
Dated: July 21, 2004